

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
BOSTON DIVISION

BOSTON TAXI OWNERS ASSOCIATION, INC. }
RAPHAEL OPHIR AND JOSEPH PIERRE }
PLAINTIFFS }
} }
v. }
} }
CITY OF BOSTON, MASSACHUSETTS, }
WILLIAM EVANS, BOSTON POLICE } Civil Action No.: 1:15-cv-10100-NMG
COMMISSIONER, ANGELA M. O'CONNOR, }
CHAIRMAN, JOLETTE A. WESTBROOK, }
COMMISSIONER, ROBERT HAYDEN, }
COMMISSIONER, }
DEPARTMENT OF PUBLIC UTILITIES, }
STEPHANIE POLLACK, TRANSPORTATION }
SECRETARY, MASSACHUSETTS }
DEPARTMENT OF TRANSPORTATION, }
DEFENDANTS }
}

PLAINTIFF'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

Plaintiff, Boston Taxi Owners Association, Inc., pursuant to Fed.R.Civ.P. 15(a)(2), moves the Court for leave to file a Second Amended Complaint adding Stephen Goldberg as a Plaintiff. A copy of the proposed Second Amended Complaint is attached hereto as Exhibit A.

In support of this motion, Plaintiff states as follows:

1. At the time this suit was filed, Raphael Ophir was the owner of several taxi medallions.
2. Raphael Ophir died on January 3, 2016.
3. Sharon Ophir, Raphael Ophir's daughter was appointed Personal Representative of his Estate on March 10, 2016.
4. On May 3, 2016, Plaintiff filed a Suggestion of Death and Motion for Substitution of

Party.

5. On May 18, 2016, the Court allowed Plaintiff's Motion for Substitution and added Sharon Ophir (hereinafter "Ms. Ophir"), as Personal Representative of the Estate of Raphael Ophir as a named party.
6. As set forth in the Assented to Motion to Amend to Remove Sharon Ophir, , as Personal Representative of Raphael Ophir, as Plaintiff, which is filed contemporaneously with this Motion, Ms. Ophir is unable to continue as a Plaintiff in this matter for the reasons set forth therein.
7. Steven Goldberg (hereinafter "Mr. Goldberg"), the proposed additional Plaintiff in the Second Amended Complaint, has held a Hackney license with the City of Boston since 1970.
8. Mr. Goldberg is the owner of three taxicab medallions and taxicab driver who has a usual address at 47 Crystal Way, Bellingham, Massachusetts 02019.
9. Mr. Goldberg is a member of the Boston Taxi Owners Association, Inc.
10. Mr. Goldberg is directly and detrimentally impacted by the proposed regulation and/or lack of enforcement of existing taxicab laws as to the TNC's and their drivers.

Under Fed. R. Civ. P. 15 (a)(2), leave to amend prior to trial "*leave shall be freely given when justice so requires*" (emphasis supplied). The standard for amending a complaint to add parties is a liberal one. See Foman v. Davis, 371 U.S. 178, 182 (1962). In the First Circuit, amendments should be allowed except when the proposed amendment would cause undue delay or unfair prejudice to the opposing party. Acosta-Mestre v. Hilton Int'l, 156 F. 3d 49, 51 (1st Cir. 1998).

Mr. Goldberg, as the owner of three taxicab medallions, is an interested party in this

matter who has been adversely impacted by the Defendants' conduct that is the subject of the instant matter. He is therefore a proper party to take the place of Mr. Ophir. As the Parties have not yet engaged in discovery and Rule 26 Disclosures are not due until October 14, 2016, Defendants will suffer no prejudice if the Court permits Mr. Goldberg to be added as a Plaintiff.

WHEREFORE, for each and all of the foregoing reasons, Plaintiff requests that the Court grant this Motion for Leave and to accept the attached Second Amended Complaint for filing.

Respectfully submitted,
By the Plaintiffs,

/s/ Jenifer M. Pinkham

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Dated: June 8, 2016

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CERTIFICATION UNDER LOCAL RULE 7.1(a)(2)

I hereby certify that I complied with Local Rule 7.1 by making a good faith attempt to narrow and/or resolve the issues addressed in this motion. The parties were unable to reach agreement on the matters addressed by this motion.

/s/ Tiffany L. Stichel
Tiffany L. Stichel

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 8, 2016.

/s/ Tiffany L. Stichel
Tiffany L. Stichel